

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 686**

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**Introduced by Assembly Member Quirk**

February 21, 2013

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An act to amend Section ~~25143.2~~ 25201.17 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 686, as amended, Quirk. Hazardous waste: ~~recyclable materials.~~  
*pharmaceutical cogeneration activities.*

*(1) Existing law requires hazardous waste facilities, including, but not limited to, treatment facilities, to operate under hazardous waste facilities permits or other grants of authorization issued by the Department of Toxic Substances Control. Existing law exempts pharmaceutical neutralization activities from certain requirements of the hazardous waste control laws and certain regulations adopted pursuant to that law if specified conditions are met with regard to the pharmaceutical manufacturing or process development activities, including the management of air emissions and wastes generated as a result of those activities. A violation of the hazardous waste control laws is a crime.*

*This bill would exempt from the hazardous waste control law, and all of the regulations adopted pursuant to that law, pharmaceutical cogeneration activities and the cogeneration fuel components, as defined, if specified conditions are met with regard to certain federal regulations and other requirements for facility construction and if the owner or operator of the facility engaged in that activity complies with certain requirements concerning emergency-related training, providing*

notifications, development of a fuel analysis plan, and maintenance of records. The bill would require the air emissions and wastes generated as a result of those activities to be managed, as specified. Since a violation of the requirements imposed by the bill upon the owner or operator of a facility engaged in pharmaceutical cogeneration activities would be a crime, the bill would impose a state-mandated local program by creating new crimes.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Under existing law, recyclable materials are subject to the requirements of the Hazardous Waste Control Law, except as specified.~~

~~This bill would make technical, nonsubstantive changes to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 25201.17 of the Health and Safety Code  
2     is amended to read:

3     25201.17. (a) For purposes of this section, the following terms  
4     have the following meanings:

5     (1) (A) “Cogeneration fuel component” means a material  
6     generated by pharmaceutical manufacturing or pharmaceutical  
7     process development activities that meets all of the following  
8     conditions:

9     (i) The material would otherwise be defined as waste or  
10    hazardous waste pursuant to this chapter.

11    (ii) The materials meet all the physical, viscosity, and constituent  
12    specifications for comparable fuel or syngas fuel under paragraph  
13    (1) or (2) of subsection (a) of Section 261.38 of Title 40 of the  
14    Code of Federal Regulations.

15    (iii) The material meets all other criteria in Section 261.38 of  
16    Title 40 of the Code of Federal Regulations that exclude  
17    comparable and syngas fuels from being classified as a solid waste  
18    for purposes of Subpart A (commencing with Section 261.1) of

1 *Part 261 of Subchapter 1 of Chapter 1 of Title 40 of the Code of*  
2 *Federal Regulations.*

3 (B) “Cogeneration fuel component” does not include a material  
4 that would otherwise be considered hazardous waste because of  
5 the presence of dioxins or furans.

6 (2) “Pharmaceutical cogeneration activities” means a  
7 pharmaceutical manufacturing facility’s onsite utilization of  
8 specified manufacturing byproducts to generate steam and  
9 electricity to support the facility’s pharmaceutical manufacturing  
10 process.

11 ~~(1)~~  
12 (3) “Pharmaceutical manufacturing or pharmaceutical process  
13 development activities” means activities conducted in North  
14 American Industry Classification System Code subgroups 325411  
15 and 325412, to the extent they meet either of the following:

16 (A) Research, development, and production activities conducted  
17 in relation to an investigational new drug application or new drug  
18 application as set forth in Part 312 (commencing with Section  
19 312.1) of, and Part 314 (commencing with Section 314.1) of,  
20 Subchapter D of Chapter 1 of Title 21 of the Code of Federal  
21 Regulations, that is filed with the United States Food and Drug  
22 Administration, or research and development activities conducted  
23 to support the future filing of an investigational new drug  
24 application or new drug application, or research, development,  
25 and production activities that are conducted in relation to a filing  
26 with a corresponding governmental authority in the European  
27 Union, Japan, or Canada that imposes similar requirements.

28 (B) The production of a pharmaceutical product, including  
29 starting materials, intermediates, and active pharmaceutical  
30 intermediates.

31 ~~(2)~~

32 (4) “Pharmaceutical neutralization activities” means the  
33 deactivation of a material generated by, or used in, pharmaceutical  
34 manufacturing or pharmaceutical process development activities  
35 through the addition of a reagent, including, but not limited to, a  
36 caustic, before management of the material as a hazardous waste  
37 subject to this chapter.

38 (5) “Syngas fuel” means synthethesis gas fuel, as specified in  
39 paragraph (2) of Subsection (a) of Section 261.38 of Title 40 of  
40 the Code of Federal Regulations.

(b) Pharmaceutical neutralization activities are exempt from any requirement imposed pursuant to this chapter, including any regulation adopted pursuant to this chapter, that relates to generators, tanks, and tank systems, and the requirement to obtain a hazardous waste facilities permit or other grant of authorization from the department, except as otherwise provided in subdivision (c), if all of the following conditions are met:

(1) A permit is not required to conduct neutralization under the federal act pursuant to Section 264.1(g)(5) of Title 40 of the Code of Federal Regulations.

(2) The pharmaceutical manufacturing or pharmaceutical process development activities are conducted in accordance with the United States Food and Drug Administration's current good manufacturing practices, as set forth in Part 210 (commencing with Section 210.1) of, and Part 211 (commencing with Section 211.1) of, Subchapter C of Chapter 1 of Title 21 of the Code of Federal Regulations.

(3) The pharmaceutical neutralization activity occurs within a unit that meets the standards of a totally enclosed treatment facility, as defined in Section 260.10 of Title 40 of the Code of Federal Regulations and Section 66260.10 of Title 22 of the California Code of Regulations, that is physically connected to the reactor or vessel where the material being neutralized is created.

(4) The pharmaceutical neutralization activity is integral to the manufacturing process and occurs within the manufacturing process area and prior to the transfer of the material to a dedicated hazardous waste storage or treatment unit.

(5) If the pharmaceutical neutralization activity occurs at greater than 15 pounds per square inch gauge pressure, it shall occur within a unit that meets applicable American Society of Mechanical Engineers (ASME) standards for pressure rated vessels, including the ASME requirements for automatic pressure relief in the event of a system failure, including pressure relief valves, burst discs, or equivalent devices.

(6) The pharmaceutical neutralization activities do not raise the temperature of the hazardous wastes to within 10 degrees Celsius of the boiling point or cause the release of hazardous gaseous emissions, using either constituent-specific concentration limits or calculations.

(7) The temperature of any unit 100 gallons or larger is automatically monitored, the unit is fitted with a high-temperature

1 alarm system, and, for closed systems, the adding and mixing of  
2 in-process and neutralizing solutions are manually controlled.

3 (8) The pharmaceutical neutralization activity occurs within a  
4 facility that has design or engineering features, including, but not  
5 limited to, trenches, sumps, berming, sloping, or diking, designed  
6 to contain all liquid spills from pharmaceutical manufacturing  
7 process and neutralization units.

8 (c) An owner or operator of a pharmaceutical neutralization unit  
9 exempt under this section shall comply with all of the following  
10 requirements:

11 (1) The owner or operator shall successfully complete a program  
12 of classroom instruction or on-the-job training that includes, at a  
13 minimum, instruction for responding effectively to emergencies  
14 by familiarizing personnel with emergency procedures, emergency  
15 equipment, and emergency systems, including, where applicable,  
16 procedures for using, inspecting, repairing, and replacing facility  
17 emergency and monitoring equipment, communications, or alarm  
18 systems.

19 (2) Within 10 days of commencing initial operation of the unit,  
20 or within any other time period that may be required by the CUPA,  
21 the owner or operator shall notify the CUPA of the commencement  
22 of the operation of the unit under the exemption made pursuant to  
23 this section. A CUPA is authorized to, and is required to,  
24 implement the requirements specified in this section. If the owner  
25 or operator is not under the jurisdiction of a CUPA, the notice shall  
26 be sent to the officer of the agency authorized, pursuant to  
27 subdivision (e) of Section 25404.3, to implement and enforce the  
28 requirements of this chapter listed in paragraph (2) of subdivision  
29 (c) of Section 25404.

30 (3) The owner or operator shall establish and maintain  
31 documentation to substantiate its compliance with all of the  
32 requirements and conditions of this section, and shall make the  
33 documentation available for inspection upon request of the  
34 department or the CUPA.

35 (d) *Pharmaceutical cogeneration activities and the cogeneration*  
36 *fuel components are exempt from the requirements imposed*  
37 *pursuant to this chapter and the regulations adopted pursuant to*  
38 *this chapter, including, but not limited to, the requirements imposed*  
39 *on generators, tanks, and tank systems, and the requirement to*  
40 *obtain a hazardous waste treatment permit or other grant of*

1 authorization from the department, except as otherwise provided  
2 in subsection (b) of Section 261.38 of Title 40 of the Code of  
3 Federal Regulations, if all of the following conditions are met:

4 (1) The pharmaceutical cogeneration activities meet the  
5 comparable fuel specifications or syngas fuel specification in  
6 Section 261.38 of Title 40 of the Code of Federal Regulations and  
7 are conducted in accordance with all conditions specified in that  
8 section.

9 (2) The pharmaceutical manufacturing or pharmaceutical  
10 process development activities are conducted in accordance with  
11 the United States Food and Drug Administration's current good  
12 manufacturing practices, as set forth in Part 210 (commencing  
13 with Section 210.1) of, and Part 211 (commencing with Section  
14 211.1) of, Subchapter C of Chapter 1 of Title 21 of the Code of  
15 Federal Regulations.

16 (3) The pharmaceutical cogeneration activity occurs within a  
17 facility that has design or engineering features, including, but not  
18 limited to, trenches, sumps, berming, sloping, or diking that are  
19 designed to contain all liquid spills from pharmaceutical  
20 manufacturing process and cogeneration units.

21 (e) (1) An owner or operator of a facility engaged in  
22 pharmaceutical cogeneration activities exempt pursuant to this  
23 section shall comply with all of the following requirements,  
24 consistent with the requirements specified in Section 261.38 of  
25 Title 40 of the Code of Federal Regulations:

26 (A) The owner or operator of a facility engaged in  
27 pharmaceutical cogeneration activities shall successfully complete  
28 a program of classroom instruction or on-the-job training that  
29 includes, at a minimum, instruction for responding effectively to  
30 emergencies by familiarizing personnel with emergency  
31 procedures, emergency equipment, and emergency systems,  
32 including, if applicable, procedures for using, inspecting, repairing,  
33 and replacing facility emergency and monitoring equipment,  
34 communications, or alarm systems.

35 (B) The owner or operator of a facility engaged in  
36 pharmaceutical cogeneration activities submits a one-time notice,  
37 except as otherwise required by state law or Section 261.38 of  
38 Title 40 of the Code of Federal Regulations, to the CUPA in whose  
39 jurisdiction the exclusion is being claimed and where the excluded

1 *fuel will be used, certifying compliance with the conditions of the*  
2 *exclusion.*

3 *(C) The owner or operator of a facility engaged in*  
4 *pharmaceutical cogeneration activities publishes in a major*  
5 *newspaper of general circulation local to the site where the*  
6 *activities take place, prior to the commencement of those activities,*  
7 *a notice entitled "Notification of Burning a Fuel Excluded Under*  
8 *the Resource Conservation and Recovery Act" and containing a*  
9 *brief, general description of the process generating the*  
10 *cogeneration fuel components.*

11 *(D) The owner or operator of a facility engaged in*  
12 *pharmaceutical cogeneration activities develops and follows a*  
13 *written fuel analysis plan that describes the procedures for*  
14 *sampling and analysis of the cogeneration fuel component, in*  
15 *accordance with the requirements of paragraph (4) of subsection*  
16 *(b) of Section 261.38 of Title 40 of the Code of Federal*  
17 *Regulations.*

18 *(E) The owner or operator of a facility engaged in*  
19 *pharmaceutical cogeneration activities maintains all records*  
20 *required by this chapter for a period of three years.*

21 *(2) The requirements of paragraph (1) do not modify any of the*  
22 *requirements specified in Section 261.38 of Title 40 of the Code*  
23 *of Federal Regulations with regard to qualifying for the exclusion*  
24 *from being classified as a solid waste pursuant to that regulation.*

25 ~~(d)~~

26 *(f) Notwithstanding any other provision of law, all air emissions*  
27 *from a pharmaceutical neutralization unit or generated as a result*  
28 *of any pharmaceutical cogeneration activity shall be managed in*  
29 *accordance with the requirements of the local air pollution control*  
30 *district or air quality management district.*

31 ~~(e)~~

32 *(g) All wastes generated as a result of pharmaceutical*  
33 *neutralization activities or pharmaceutical cogeneration activities*  
34 *shall be managed as hazardous wastes in accordance with all*  
35 *applicable requirements of this chapter.*

36 *SEC. 2. No reimbursement is required by this act pursuant to*  
37 *Section 6 of Article XIII B of the California Constitution because*  
38 *the only costs that may be incurred by a local agency or school*  
39 *district will be incurred because this act creates a new crime or*  
40 *infraction, eliminates a crime or infraction, or changes the penalty*

1 *for a crime or infraction, within the meaning of Section 17556 of*  
2 *the Government Code, or changes the definition of a crime within*  
3 *the meaning of Section 6 of Article XIII B of the California*  
4 *Constitution.*

5 SECTION 1. ~~Section 25143.2 of the Health and Safety Code~~  
6 ~~is amended to read:~~

7 ~~25143.2.—(a) Recyclable materials are subject to this chapter~~  
8 ~~and the regulations adopted by the department to implement this~~  
9 ~~chapter that apply to hazardous wastes, unless the department~~  
10 ~~issues a variance pursuant to Section 25143, or except as provided~~  
11 ~~otherwise in subdivision (b), (c), or (d) or in the regulations adopted~~  
12 ~~by the department pursuant to Sections 25150 and 25151.~~

13 ~~(b) Except as otherwise provided in subdivisions (e), (f), and~~  
14 ~~(g), recyclable material that is managed in accordance with Section~~  
15 ~~25143.9 and is or will be recycled by one or more of the following~~  
16 ~~methods shall be excluded from classification as a waste:~~

17 ~~(1) Used or reused as an ingredient in an industrial process to~~  
18 ~~make a product if the material is not being reclaimed.~~

19 ~~(2) Used or reused as a safe and effective substitute for~~  
20 ~~commercial products if the material is not being reclaimed.~~

21 ~~(3) Returned to the original process from which the material~~  
22 ~~was generated, without first being reclaimed, if the material is~~  
23 ~~returned as a substitute for raw material feedstock, and the process~~  
24 ~~uses raw materials as principal feedstocks.~~

25 ~~(e) Except as otherwise provided in subdivision (e), recyclable~~  
26 ~~material may be recycled at a facility that is not authorized by the~~  
27 ~~department pursuant to the applicable hazardous waste facilities~~  
28 ~~permit requirements of Article 9 (commencing with Section 25200)~~  
29 ~~if either of the following requirements is met:~~

30 ~~(1) The material is a petroleum refinery waste containing oil~~  
31 ~~that is converted into petroleum coke at the same facility where~~  
32 ~~the waste was generated unless the resulting coke product would~~  
33 ~~be identified as a hazardous waste under this chapter.~~

34 ~~(2) The material meets all of the following conditions:~~

35 ~~(A) The material is recycled and used at the same facility where~~  
36 ~~the material was generated.~~

37 ~~(B) The material is recycled within the applicable generator~~  
38 ~~accumulation time limits specified in Section 25123.3 and the~~  
39 ~~regulations adopted by the department pursuant to paragraph (1)~~  
40 ~~of subdivision (b) of Section 25123.3.~~



1     ~~(C) The material is managed in accordance with all applicable~~  
2     ~~requirements for generators of hazardous wastes under this chapter~~  
3     ~~and regulations adopted by the department.~~

4     ~~(d) Except as otherwise provided in subdivisions (e), (f), (g),~~  
5     ~~and (h), recyclable material that meets the definition of a~~  
6     ~~non-RCRA hazardous waste in Section 25117.9, is managed in~~  
7     ~~accordance with Section 25143.9, and meets or will meet one or~~  
8     ~~more of the following requirements is excluded from classification~~  
9     ~~as a waste:~~

10    ~~(1) The material can be shown to be recycled and used at the~~  
11    ~~site where the material was generated.~~

12    ~~(2) The material qualifies as one or more of the following:~~

13    ~~(A) The material is a product that has been processed from a~~  
14    ~~hazardous waste, or has been handled, at a facility authorized by~~  
15    ~~the department pursuant to the facility permit requirements of~~  
16    ~~Article 9 (commencing with Section 25200) to process or handle~~  
17    ~~the material, if the product meets both of the following conditions:~~

18    ~~(i) The product does not contain constituents, other than those~~  
19    ~~for which the material is being recycled, that render the material~~  
20    ~~hazardous under regulations adopted pursuant to Sections 25140~~  
21    ~~and 25141.~~

22    ~~(ii) The product is used, or distributed or sold for use, in a~~  
23    ~~manner for which the product is commonly used.~~

24    ~~(B) The material is a petroleum refinery waste containing oil~~  
25    ~~that is converted into petroleum coke at the same facility where~~  
26    ~~the waste was generated, unless the resulting coke product would~~  
27    ~~be identified as a hazardous waste under this chapter.~~

28    ~~(C) The material is oily waste, used oil, or spent nonhalogenated~~  
29    ~~solvent that is managed by the owner or operator of a refinery that~~  
30    ~~is processing primarily crude oil and is not subject to permit~~  
31    ~~requirements for the recycling of used oil, or by a public utility,~~  
32    ~~or by a corporate subsidiary, corporate parent, or subsidiary of the~~  
33    ~~same corporate parent of the refinery or public utility, and meets~~  
34    ~~all of the following requirements:~~

35    ~~(i) The material is either burned in an industrial boiler, an~~  
36    ~~industrial furnace, an incinerator, or a utility boiler that is in~~  
37    ~~compliance with all applicable federal and state laws, or is~~  
38    ~~recombined with normal process streams to produce a fuel or other~~  
39    ~~refined petroleum product.~~

1     (ii) ~~The material is managed at the site where it was generated;~~  
2     ~~managed at another site owned or operated by the generator, a~~  
3     ~~corporate subsidiary of the generator, a subsidiary of the same~~  
4     ~~entity of which the generator is a subsidiary, or the corporate parent~~  
5     ~~of the generator; or, if the material is generated in the course of~~  
6     ~~oil or gas exploration or production, managed by an unrelated~~  
7     ~~refinery receiving the waste through a common pipeline.~~

8     (iii) ~~The material does not contain constituents, other than those~~  
9     ~~for which the material is being recycled, that render the material~~  
10    ~~hazardous under regulations adopted pursuant to Sections 25140~~  
11    ~~and 25141, unless the material is an oil-bearing material or~~  
12    ~~recovered oil that is managed in accordance with subdivisions (b)~~  
13    ~~and (c) of Section 25144 or unless the material is used oil removed~~  
14    ~~from equipment, vehicles, or engines used primarily at the refinery~~  
15    ~~where it is to be used to produce fuels or other refined petroleum~~  
16    ~~products and the used oil is managed in accordance with Section~~  
17    ~~279.22 of Title 40 of the Code of Federal Regulations prior to~~  
18    ~~insertion into the refining process.~~

19    (D) ~~The material is a fuel that is transferred to, and processed~~  
20    ~~into, a fuel or other refined petroleum product at a petroleum~~  
21    ~~refinery, as defined in paragraph (4) of subdivision (a) of Section~~  
22    ~~25144, and meets one of the following requirements:~~

23    (i) ~~The fuel has been removed from a fuel tank and is~~  
24    ~~contaminated with water or nonhazardous debris, of not more than~~  
25    ~~2 percent by weight, including, but not limited to, rust or sand.~~

26    (ii) ~~The fuel has been unintentionally mixed with an unused~~  
27    ~~petroleum product.~~

28    (3) ~~The material is transported between locations operated by~~  
29    ~~the same person who generated the material, if the material is~~  
30    ~~recycled at the last location operated by that person and all of the~~  
31    ~~conditions of clauses (i) to (vi), inclusive, of subparagraph (A) of~~  
32    ~~paragraph (4) are met. If requested by the department or by any~~  
33    ~~official authorized to enforce this section pursuant to subdivision~~  
34    ~~(a) of Section 25180, a person handling material subject to this~~  
35    ~~paragraph, within 15 days from the date of receipt of the request,~~  
36    ~~shall supply documentation to show that the requirements of this~~  
37    ~~paragraph have been satisfied.~~

38    (4) (A) ~~The material is transferred between locations operated~~  
39    ~~by the same person who generated the material, if the material is~~

1 to be recycled at an authorized offsite hazardous waste facility and  
2 if all of the following conditions are met:

3 (i) The material is transferred by employees of that person in  
4 vehicles under the control of that person or by a registered  
5 hazardous waste hauler under contract to that person.

6 (ii) The material is not handled at an interim location.

7 (iii) The material is not held at a publicly accessible interim  
8 location for more than four hours unless required by other  
9 provisions of law.

10 (iv) The material is managed in compliance with this chapter  
11 and the regulations adopted pursuant to this chapter prior to the  
12 initial transportation of the material and after the receipt of the  
13 material at the last location operated by that person. Upon receipt  
14 of the material at the last location operated by that person, the  
15 material shall be deemed to have been generated at that location.

16 (v) All of the following information is maintained in an  
17 operating log at the last location operated by that person and kept  
18 for at least three years after receipt of the material at that location:

19 (I) The name and address of each generator location contributing  
20 material to each shipment received.

21 (II) The quantity and type of material contributed by each  
22 generator to each shipment of material.

23 (III) The destination and intended disposition of all material  
24 shipped offsite or received.

25 (IV) The date of each shipment received or sent offsite.

26 (vi) If requested by the department, or by any law enforcement  
27 official, a person handling material subject to this paragraph, within  
28 15 days from the date of receipt of the request, shall supply  
29 documentation to show that the requirements of this paragraph  
30 have been satisfied.

31 (B) For purposes of paragraph (3) and subparagraph (A) of this  
32 paragraph, "person" also includes corporate subsidiary, corporate  
33 parent, or subsidiary of the same corporate parent.

34 (C) Persons that are a corporate subsidiary, corporate parent,  
35 or subsidiary of the same corporate parent, and that manage  
36 recyclable materials under paragraph (3) or subparagraph (A) of  
37 this paragraph, are jointly and severally liable for any activities  
38 excluded from regulation pursuant to this section.

~~(5) The material is used or reused as an ingredient in an industrial process to make a product if the material meets all of the following requirements:~~

~~(A) The material is not a wastewater that meets all of the following criteria:~~

~~(i) The wastewater is a non-RCRA hazardous waste.~~

~~(ii) The wastewater contains more than 75 parts per million of total petroleum hydrocarbons, as determined by use of United States Environmental Protection Agency Method 1664, Revision A for Silica Gel Treated N-Hexane Extractable Material.~~

~~(iii) The wastewater has been transported offsite to a facility, that is not a publicly owned treatment works, a facility owned by the generator, or a corporate subsidiary, corporate parent, or a subsidiary of the same corporate parent of the generator.~~

~~(B) Discharges into the air from the treatment of the material by the procedures specified in subparagraph (C) do not contain constituents that are hazardous wastes pursuant to the regulations of the department and are in compliance with applicable air pollution control laws.~~

~~(C) The material is not being treated except by one or more of the following procedures:~~

~~(i) Filtering.~~

~~(ii) Screening.~~

~~(iii) Sorting.~~

~~(iv) Sieving.~~

~~(v) Grinding.~~

~~(vi) Physical or gravity separation without the addition of external heat or any chemicals.~~

~~(vii) pH adjustment.~~

~~(viii) Viscosity adjustment.~~

~~(6) The material is used or reused as a safe and effective substitute for commercial products, if the material meets all of the following requirements:~~

~~(A) The material is not a wastewater that meets all of the following criteria:~~

~~(i) The wastewater is a non-RCRA hazardous waste.~~

~~(ii) The wastewater contains more than 75 parts per million of total petroleum hydrocarbons, as determined by use of United States Environmental Protection Agency Method 1664, Revision A for Silica Gel Treated N-Hexane Extractable Material.~~

1     ~~(iii) The wastewater has been transported offsite to a facility~~  
2     ~~that is not a publicly owned treatment works, or a facility owned~~  
3     ~~by the generator, or a corporate subsidiary, corporate parent, or a~~  
4     ~~subsidiary of the same corporate parent of the generator.~~

5     ~~(B) Any discharges to air from the treatment of the material by~~  
6     ~~the procedures specified in subparagraph (C) do not contain~~  
7     ~~constituents that are hazardous wastes pursuant to the regulations~~  
8     ~~of the department and the discharges are in compliance with~~  
9     ~~applicable air pollution control laws.~~

10    ~~(C) The material is not being treated, except by one or more of~~  
11    ~~the following procedures:~~

12    ~~(i) Filtering.~~

13    ~~(ii) Screening.~~

14    ~~(iii) Sorting.~~

15    ~~(iv) Sieving.~~

16    ~~(v) Grinding.~~

17    ~~(vi) Physical or gravity separation without the addition of~~  
18    ~~external heat or any chemicals.~~

19    ~~(vii) pH adjustment.~~

20    ~~(viii) Viscosity adjustment.~~

21    ~~(7) The material is a chlorofluorocarbon or~~  
22    ~~hydrochlorofluorocarbon compound or a combination of~~  
23    ~~chlorofluorocarbon or hydrochlorofluorocarbon compounds, is~~  
24    ~~being reused or recycled, and is used in heat transfer equipment,~~  
25    ~~including, but not limited to, mobile air-conditioning systems,~~  
26    ~~mobile refrigeration, and commercial and industrial~~  
27    ~~air-conditioning and refrigeration systems, used in fire~~  
28    ~~extinguishing products, or contained within foam products.~~

29    ~~(e) Notwithstanding subdivisions (b), (c), and (d), all of the~~  
30    ~~following recyclable materials are hazardous wastes and are subject~~  
31    ~~to full regulation under this chapter, even if the recycling involves~~  
32    ~~use, reuse, or return to the original process as described in~~  
33    ~~subdivision (b), and even if the recycling involves activities or~~  
34    ~~materials described in subdivisions (c) and (d):~~

35    ~~(1) Materials that are a RCRA hazardous waste, as defined in~~  
36    ~~Section 25120.2, are used in a manner constituting disposal, or are~~  
37    ~~used to produce products that are applied to the land, including,~~  
38    ~~but not limited to, materials used to produce a fertilizer, soil~~  
39    ~~amendment, agricultural mineral, or an auxiliary soil and plant~~  
40    ~~substance.~~

~~(2) Materials that are a non-RCRA hazardous waste, as defined in Section 25117.9, and are used in a manner constituting disposal or used to produce products that are applied to the land as a fertilizer, soil amendment, agricultural mineral, or an auxiliary soil and plant substance. The department may adopt regulations to exclude materials from regulation pursuant to this paragraph.~~

~~(3) Materials burned for energy recovery, used to produce a fuel, or contained in fuels, except materials exempted under paragraph (1) of subdivision (c) or excluded under subparagraph (B), (C), or (D) of paragraph (2) of subdivision (d).~~

~~(4) Materials accumulated speculatively.~~

~~(5) Materials determined to be inherently wastelike pursuant to regulations adopted by the department.~~

~~(6) Used or spent etchants, stripping solutions, and plating solutions that are transported to an offsite facility operated by a person other than the generator and either of the following applies:~~

~~(A) The etchants or solutions are no longer fit for their originally purchased or manufactured purpose.~~

~~(B) If the etchants or solutions are reused, the generator and the user cannot document that they are used for their originally purchased or manufactured purpose without prior treatment.~~

~~(7) Used oil, as defined in paragraph (1) of subdivision (a) of Section 25250.1, unless one of the following applies:~~

~~(A) The used oil is managed in accordance with the applicable requirements of Part 279 (commencing with 279.1) of Title 40 of the Code of Federal Regulations and is excluded under any of the following:~~

~~(i) Subparagraph (B) or (C) of paragraph (2) of subdivision (d).~~

~~(ii) Paragraph (4) of subdivision (d).~~

~~(iii) Subdivision (b) of Section 25250.1.~~

~~(iv) Section 25250.3.~~

~~(B) The used oil is used or reused on the site where it was generated or is excluded under paragraph (3) of subdivision (d); is managed in accordance with the applicable requirements of Part 279 (commencing with Section 279.1) of Title 40 of the Code of Federal Regulations, and is not any of the following:~~

~~(i) Used in a manner constituting disposal or used to produce a product that is applied to land.~~

1     (ii) ~~Burned for energy recovery or used to produce a fuel unless~~  
2     ~~the used oil is excluded under subparagraph (B) or (C) of paragraph~~  
3     ~~(2) of subdivision (d).~~

4     (iii) ~~Accumulated speculatively.~~

5     (iv) ~~Determined to be inherently wastelike pursuant to~~  
6     ~~regulations adopted by the department.~~

7     (f) (1) ~~A person who manages a recyclable material under a~~  
8     ~~claim that the material qualifies for exclusion or exemption~~  
9     ~~pursuant to this section shall provide, upon request, to the~~  
10    ~~department, the California Environmental Protection Agency, or~~  
11    ~~local agency or official authorized to bring an action as provided~~  
12    ~~in Section 25180, all of the following information:~~

13    ~~(A) The name, street and mailing address, and telephone number~~  
14    ~~of the owner or operator of the facility that manages the material.~~

15    ~~(B) Information related to the management by that person of~~  
16    ~~the material requested by the department, the California~~  
17    ~~Environmental Protection Agency, or the authorized local agency~~  
18    ~~or official.~~

19    (2) ~~A person claiming an exclusion or an exemption pursuant~~  
20    ~~to this section shall maintain adequate records to demonstrate to~~  
21    ~~the satisfaction of the requesting agency or official that there is a~~  
22    ~~known market or disposition for the material, and that the~~  
23    ~~requirements of an exemption or exclusion claimed pursuant to~~  
24    ~~this section are met.~~

25    (3) ~~For purposes of determining that the conditions for exclusion~~  
26    ~~from classification as a waste pursuant to this section are met, a~~  
27    ~~person, facility, site, or vehicle engaged in the management of a~~  
28    ~~material under a claim that the material is excluded from~~  
29    ~~classification as a waste pursuant to this section is subject to~~  
30    ~~Section 25185.~~

31    (g) ~~For purposes of Chapter 6.8 (commencing with Section~~  
32    ~~25300), recyclable materials excluded from classification as a~~  
33    ~~waste pursuant to this section are not excluded from the definition~~  
34    ~~of hazardous substances in subdivision (g) of Section 25316.~~

35    (h) ~~Used oil that fails to qualify for exclusion pursuant to~~  
36    ~~subdivision (d) solely because the used oil is a RCRA hazardous~~  
37    ~~waste may be managed pursuant to subdivision (d) if the used oil~~  
38    ~~is also managed in accordance with the applicable requirements~~  
39    ~~of Part 279 (commencing with Section 279.1) of Title 40 of the~~  
40    ~~Code of Federal Regulations.~~

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